

SENATE BILL 913

By Burks

AN ACT to amend Tennessee Code Annotated, Title 38,  
Chapter 1, Part 2, relative to scrap metal and  
jewelry dealers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 38-1-202, is amended by deleting subsection (b) in its entirety and substituting instead the following new subsections:

(b) No person acting as a buyer or dealer under this section shall purchase any item covered by this section from a person under eighteen (18) years of age, nor accept any item covered by this section from anyone who appears intoxicated, nor from any person known to the person to be a thief, or to have been convicted of larceny, burglary or robbery, without first notifying a police officer. Any person acting as a buyer or dealer under the provisions of this section shall exercise due care to comply with the provisions of this section.

(c) No person acting as a buyer or dealer under the provisions of this section shall take any item covered by this section under a buy-sell agreement, when the article is known to the person to be stolen.

SECTION 2. Tennessee Code Annotated, Section 38-1-203, is amended by deleting the section in its entirety and substituting instead the following:

(a) Every person or corporation dealing in the items described in § 38-1-201 shall keep a log in duplicate and shall enter on the log:

(1) A clear and accurate description of any items of jewelry or precious metals purchased including, if applicable:

(A) Brand name;

(B) Model number;

(C) Serial number, if issued by the manufacturer and not intentionally defaced, altered or removed;

(D) Size;

(E) Color, as apparent to the untrained eye, not applicable to diamonds;

(F) Precious metal type, content and weight, if indicated;

(G) Gemstone description, including the number of stones; and

(H) Any other unique identifying marks, numbers, names or letters.

(2) Information on the seller, including: the name, race, sex, height, weight, date of birth, residence address and numbers from the items used as identification. Acceptable items of identification are one (1) of the following documents:

(A) A state-issued driver license;

(B) A state-issued identification card;

(C) A passport;

(D) A valid military identification;

(E) A nonresident alien border crossing card;

(F) A resident alien border crossing card; or

(G) A United States immigration and naturalization service identification; and

(3) The date and amount of money paid for such items.

(b) The seller and the purchaser shall sign the log below the description of each transaction.

(c) On each day the purchaser shall transact business of the type described within this section, the purchaser shall deliver to the sheriff and the chief of police of each county or municipality in which the business is conducted a copy of the log concerning that day's business, and the copy of the log shall be delivered by twelve o'clock (12:00) noon of the day following the date of the transaction. The book shall be carefully preserved without alteration and shall at all times be open to the inspection of the sheriff of the county and the chief of police or any deputy or police officer of the city or county.

SECTION 3. Tennessee Code Annotated, Title 38, Chapter 1, Part 2, is amended by adding the following language as a new section:

§ 38-1-205.

(a) When any person sells property to a buyer or dealer subject to § 38-1-201, the buyer or dealer shall obtain and record the information provided for in § 38-1-203 and obtain a statement of the seller that the seller is the lawful owner of the item, and have the record signed by the seller. This record shall be made available to any law enforcement agency or officer upon request.

(b) (1) The party asserting ownership of any property, which the party alleges is stolen and which is in the possession of a buyer or dealer subject to § 38-1-201, may recover the property by making a report to any law enforcement agency of the location of the property and providing the law enforcement agency with proof of ownership of the property; provided, that a report of the theft of the property was made to the proper authorities within thirty (30) days after obtaining knowledge of the theft or loss; and provided further, that the party asserting ownership will assist in the prosecution of the seller of the item. Upon the receipt of proof of ownership, any law enforcement officer is authorized to recover the property from the buyer or dealer, without expense to the

rightful owner thereof, unless the buyer or dealer presents evidence of having received proof of ownership of the property by the seller. Any property recovered from a buyer or dealer subject to § 38-1-201, shall be returned to the rightful owner thereof, subject to evidence in any criminal proceeding.

(2) In the event that the party asserting ownership of the article has provided a timely report of the theft or loss of the article, and the buyer or dealer presents acceptable evidence to the law enforcement agency of having received proper proof of ownership from the seller of the property, then and only then shall the law enforcement agency have satisfied its processes, duties and responsibilities. It shall then inform the party alleging ownership that it will be necessary for that person to commence an appropriate civil action for the return of the items within thirty (30) days of receiving the notice. The buyer or dealer shall not be required to surrender the property to any law enforcement officer or agency or any other person absent an appropriate warrant.

(3) If for any reason after the local authorities have seized certain property and are unable to locate the rightful owner of the property after due diligence, then the property may be returned to buyer or dealer upon the buyer or dealer executing a hold-harmless agreement to the local authorities pursuant to title 40, chapter 33.

SECTION 4. Tennessee Code Annotated, Section 38-1-204, is amended by deleting the language "Class C misdemeanor" and substituting instead the language "Class A misdemeanor".

SECTION 5. This act shall take effect July 1, 2009, the public welfare requiring it.